

FIRST REGULAR SESSION

[P E R F E C T E D]

# SENATE BILL NO. 178

93RD GENERAL ASSEMBLY

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INTRODUCED BY SENATOR SHIELDS.

Read 1st time January 13, 2005, and ordered printed.

Read 2nd time January 18, 2005, and referred to the Committee on Financial and Governmental Organizations and Elections.

Reported from the Committee February 14, 2005, with recommendation that the bill do pass and be placed on the Consent Calendar.

Taken up February 22, 2005. Read 3rd time and placed upon its final passage; bill passed.

TERRY L. SPIELER, Secretary.

0847S.01P

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## AN ACT

To repeal sections 330.010, 330.020, 330.030, 330.040, 330.045, 330.050, 330.065, 330.070, 330.080, 330.090, 330.100, 330.110, 330.160, 330.180, 330.200, and 330.210, RSMo, and to enact in lieu thereof sixteen new sections relating to podiatrists, with penalty provisions.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 330.010, 330.020, 330.030, 330.040, 330.045, 330.050, 330.065, 330.070, 330.080, 330.090, 330.100, 330.110, 330.160, 330.180, 330.200, and 330.210, RSMo, are repealed and sixteen new sections enacted in lieu thereof, to be known as sections 330.010, 330.020, 330.030, 330.040, 330.045, 330.050, 330.065, 330.070, 330.080, 330.090, 330.100, 330.110, 330.160, 330.180, 330.200, and 330.210, to read as follows:

330.010. 1. The word "board" whenever used in this chapter means the state board of podiatric medicine.

2. The definitions of the words "podiatrist" or "physician of the foot" shall for the purpose of this section be held to be the diagnosis, medical, physical, or surgical treatment of the ailments of the human foot, with the exception of administration of general anesthetics, or amputation of the foot and with the

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

further exception that the definitions shall not apply to bone surgery on children under the age of one year. The use of such drugs and medicines in the treatment of ailments of the human foot shall not include the treatment of any systemic diseases. For the purposes of this chapter, the term "human foot" includes the ankle and the tendons which insert into the foot as well as the foot. For surgery of the ankle only, the doctor of podiatric medicine licensed pursuant to this chapter shall either be board certified in foot and ankle surgery by the American Board of Podiatric Surgery or shall complete a twenty-four-month **postgraduate clinical** residency in podiatric surgery; provided, however, any newly licensed doctor of podiatric medicine desiring to perform ankle surgery and licensed pursuant to this chapter after January 1, 2005, shall be required to complete a twenty-four-month **postgraduate clinical** residency in podiatric surgery. Nothing in this section shall be construed to prohibit a doctor of podiatric medicine from performing ankle surgery under the direct supervision of a doctor who is authorized to perform surgery of the ankle. Surgical treatment of the ankle by a doctor of podiatric medicine shall be performed only in a licensed acute care hospital or a licensed ambulatory surgical clinic. A doctor of podiatric medicine performing ankle surgery shall be required to complete the [same annual] **biennial** continuing medical education hourly credit requirements as [provided in section 334.075, RSMo, for a doctor of orthopedic surgery] **established by the state board of podiatric medicine**. The doctor of podiatric medicine shall have obtained approval of the physician's credentialing committee of a licensed acute care hospital or a licensed ambulatory surgical clinic.

330.020. No one shall practice [podiatry] **podiatric medicine** in this state unless duly licensed [and registered] as provided by law.

330.030. Any person desiring to practice [podiatry] **podiatric medicine** in this state shall furnish the board with satisfactory proof, including a statement under oath or affirmation that all representations are true and correct to the best knowledge and belief of the person submitting and signing same, subject to the penalties of making a false affidavit or declaration, that he or she is twenty-one years of age or over, and of good moral character, and that he or she has received at least four years of high school training, or the equivalent thereof, and has received a diploma or certificate of graduation from an approved college of [podiatry] **podiatric medicine**, recognized and approved by the board, having a minimum requirement of two years in an accredited college and four years in

a recognized college of [podiatry] **podiatric medicine**. Upon payment of the examination fee, and making satisfactory proof as aforesaid, the applicant shall be examined by the board, or a committee thereof, under such rules and regulations as said board may determine, and if found qualified, shall be licensed, upon payment of the license fee, to practice [podiatry] **podiatric medicine** as [registered] **licensed**; provided, that the board shall, under regulations established by the board, admit without examination legally qualified practitioners of [podiatry] **podiatric medicine** who hold [certificates] **licenses** to practice [podiatry] **podiatric medicine** in any state or territory of the United States or the District of Columbia or any foreign country with equal educational requirements to the state of Missouri upon the applicant paying a fee equivalent to the license and examination fees required above.

330.040. Examinations shall be in the English language, and shall be written, oral, or clinical, or a combination of two or more of the said methods as the board shall determine and provide by rule. **The examination will consist of the examination offered by the National Board of Podiatric Medical Examiners, as well as an examination of applicable Missouri statutes and regulations which shall be promulgated or approved by the board.** The examination shall embrace the subjects of anatomy, physiology, chemistry, bacteriology, surgery, histology, pathology, diagnosis and treatment, materia medica and therapeutics as these subjects relate to antiseptics and [anaesthetics] **anesthetics**, and clinical [podiatry] **podiatric medicine**, but said examinations shall be so limited in their scope as to cover only the minimum requirements for [podiatry] **podiatric medical** education as herein provided, and shall not be construed to require of the applicant a medical or surgical education other than deemed necessary for the practice of [podiatry] **podiatric medicine**. The board shall by rule and regulation prescribe the standard for successful completion of the examination.

330.045. Every applicant for a permanent license as a podiatrist shall provide the state board of [podiatry] **podiatric medicine** with satisfactory evidence of having successfully completed such postgraduate training in hospitals and such other clinical and surgical settings as the board may prescribe by rule.

330.050. 1. Upon due application therefor and upon submission by such person of evidence satisfactory to the board that such person is licensed to practice [podiatry] **podiatric medicine** in this state, and upon the payment of the fees required to be paid by this chapter, the board shall cause to be issued to

such applicant a [certificate of registration] **license**, which [certificate] **license** shall recite that the person therein named is duly registered for the period specified.

2. Such [certificate of registration] **license** shall contain the name of the person to whom it is issued and the office address [and residence address] of such person, the date and number of the license issued to such person to practice [podiatry] **podiatric medicine**.

3. Every person practicing [podiatry] **podiatric medicine** shall, upon receiving such [certificate] **license**, cause the same to be conspicuously displayed at all times in every office maintained by such person or in which he practices [podiatry] **podiatric medicine** in this state. If such person maintains or practices in more than one office in this state, the board shall[, upon the payment of an additional fee to be set by the board, cause to be issued] **issue** to such person a duplicate [certificates of registration] **license** for each office so maintained or in which such person may practice. If such person maintains or practices in more than one office in this state, the board shall, [without an additional fee, cause to be issued] **issue** to such person duplicate renewal [certificates of registration] **licenses** for each office so maintained or in which such person may practice.

4. If any registrant shall change the location of his office during the period for which any [certificate of registration] **license** shall have been issued, such registrant shall, within fifteen days thereafter, notify the board of such change, whereupon he shall be issued, without additional fee, a duplicate [registration] renewal [certificate] **license** for such new location.

330.065. 1. Any person desiring to serve a period of internship/residency in a Missouri hospital may do so without obtaining a permanent [certificate of registration] **license** from the board if he or she qualifies for and obtains a temporary [certificate of registration] **license** for internship/residency from the board **for a two-year period**.

2. The board shall grant a temporary [certificate of registration] **license** for internship/residency upon proper application if it finds:

(1) That the applicant has graduated from a college of [podiatry] **podiatric medicine** recognized and approved by the board; and

(2) That the applicant has successfully passed an examination of the National Board of [Podiatry] **Podiatric Medical** Examiners or any successor thereof; and

(3) That the internship/residency program the applicant intends to enter is offered by a Missouri hospital accredited by the [American Podiatry Association] **American Podiatric Medical Association**.

3. Any person desiring to obtain a temporary [certificate of registration] **license** shall make application to the board with evidence that he or she meets the requirements of this section. There shall be a fee paid by the applicant for the temporary [certificate of registration] **license**, such fee to be paid upon the issuance of the [certificate] **license**. There shall be an application fee which shall accompany all applications for a temporary [certificate of registration] **license** and shall be nonrefundable.

4. [The temporary certificate of registration for internship/residency may upon approval by the board for good cause shown be renewed for an additional one-year period.] If during the period of internship/residency specified in the temporary [certificate] **license**, the holder thereof shall transfer from the internship/residency program offered by the hospital specified in his or her application, the holder must, before such transfer, receive approval for the transfer from the board. Upon approval of the transfer, the **new** temporary [certificate] **license** shall remain valid for [one year] **a two-year period** from the [date of such transfer] **original date of issuance**.

330.070. 1. The board shall on or before the first day of the month preceding the [registration] **biennial license** renewal date cause to be mailed to each person licensed to practice [podiatry] **podiatric medicine** in this state, at the last known office or residence address of such person, a blank application form for such person's [registration] **biennial license** renewal.

2. Each person applying for [registration] **biennial license** renewal shall complete the form and return it to the board on or before the renewal date for the licensing period for which the person desires to be registered.

3. Each applicant shall give on the form such applicant's full name[,] **and** the applicant's office [and residence addresses] **address**.

4. Each applicant shall give with the application for [registration] **biennial license renewal** satisfactory evidence of completion of [twelve] **twenty-four** hours of postgraduate study for each [year] **renewal period** since the last issuance or renewal of the license. The postgraduate study required shall be that presented by a college of [podiatry] **podiatric medicine** accredited by the American [Podiatry] **Podiatric Medical** Association or a course of study approved by the board.

5. Failure of the registrant to receive the renewal form shall not relieve any registrant of the duty to register and pay the fee required by this chapter nor exempt any such person from the penalties provided by this chapter for failure to register.

330.080. Each applicant for [registration] **biennial license renewal** under this chapter shall accompany the application for [registration] **biennial license renewal** with a [registration] **biennial renewal** fee to be paid to the director of revenue for the licensing period for which [registration] **licensure** is sought. If said application be filed and said fee paid after the **biennial** renewal date, there shall be a late fee in addition to the [registration] **biennial license renewal** fee; provided, however, that whenever in the opinion of the board the applicant's failure to [register] **renew the license** was caused by extenuating circumstances including illness of the applicant, as defined by rule, the late fee may be waived by such board, and provided further, that whenever any license is granted to any person to practice [podiatry] **podiatric medicine** under the provisions of this chapter, the board shall upon application therefor cause to be issued to such licensee a [certificate of registration] **biennial license renewal** covering the period from the date of the issuance of such license to the next [registration] **biennial license** renewal date without the payment of [any] **the late fee**.

330.090. Any person licensed to practice [podiatry] **podiatric medicine** in this state who has retired or may hereafter retire from such practice shall not be required to register as required by this chapter, provided such person shall file with the board an affidavit which states the date on which the person retired from the practice of [podiatry] **podiatric medicine** and such other facts as shall tend to verify the person's retirement as the board deems necessary; provided, however, that if such person thereafter reengage in the practice of [podiatry] **podiatric medicine**, the person shall [register] **reapply** with the board as provided by [this chapter] **section 330.030. The retired applicant will be required to submit evidence of satisfactory completion of the applicable continuing education requirements as well as submitting the licensing, processing, and administration fees established by the board.**

330.100. There is hereby created and established a "State Board of Podiatric Medicine" for the purpose of licensing [and registering] all practitioners of [podiatry] **podiatric medicine** in this state, which board shall have such other powers and duties as are provided by this chapter. The board shall meet

annually and at such other times and places as a majority of the board shall designate.

330.110. 1. The board shall be composed of five members including one voting public member, to be appointed by the governor with the advice and consent of the senate. Vacancies on the board shall be filled in like manner. The term of office of each member shall be four years. Each member of the board shall receive as compensation an amount set by the board not to exceed [fifty] **seventy** dollars for each day devoted to the affairs of the board, and shall be entitled to reimbursement of the member's expenses necessarily incurred in the discharge of the member's official duties. All members of the board, except the public member, shall be doctors of surgical [podiatry] **podiatric medicine** duly registered and licensed pursuant to the laws of this state, shall be United States citizens, shall have been residents of this state for at least one year next preceding their appointment and shall have been engaged in the lawful and ethical practice of [podiatry] **podiatric medicine** for a period of not less than five years. Not more than two of the podiatrists shall belong to the same political party. Members of the board shall not be directly or indirectly interested in any [podiatry] **podiatric medical** college or the [podiatry] **podiatric medical** department of any institution of higher learning or in any [podiatry] **podiatric medical** supply or shoe business. The president of the Missouri Podiatric Medical Association in office at the time shall, at least ninety days prior to the expiration of the term of a board member, other than the public member, or as soon as feasible after a vacancy on the board otherwise occurs, submit to the director of the division of professional registration a list of five doctors of surgical [podiatry] **podiatric medicine** qualified and willing to fill the vacancy in question, with the request and recommendation that the governor appoint one of the five persons so listed, and with the list so submitted, the president of the Missouri Podiatric Medical Association shall include in his or her letter of transmittal a description of the method by which the names were chosen by that association.

2. The public member shall be at the time of the member's appointment a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated pursuant to this chapter or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by this chapter, or an

activity or organization directly related to any profession licensed or regulated pursuant to this chapter. All members, including public members, shall be chosen from lists submitted by the director of the division of professional registration. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

[3. All members on the state board of podiatry on August 28, 1995, shall automatically become members of the state board of podiatric medicine.]

330.160. 1. The board may refuse to issue any certificate of registration or authority, permit or license required pursuant to this chapter for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered his or her certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered his or her certificate of registration or authority, permit or license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by this chapter;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated pursuant to this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of registration or authority, permit or license issued pursuant to this chapter or in obtaining permission to take any examination given or required



pursuant to this chapter;

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) Incompetency, misconduct, repeated negligence, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant to this chapter;

(7) Impersonation of any person holding a certificate of registration or authority, permit or license or allowing any person to use his or her certificate of registration or authority, permit, license or diploma from any school;

(8) Disciplinary action against the holder of a license or other right to practice any profession regulated by this chapter granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(9) A person is finally adjudged insane or incompetent by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by this chapter who is not registered and currently eligible to practice pursuant to this chapter;

(11) Issuance of a certificate of registration or authority, permit or license based upon a material mistake of fact;

(12) Failure to display a valid certificate or license if so required by this chapter or any rule promulgated hereunder;

(13) Violation of any professional trust or confidence;

(14) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed. False, misleading or deceptive advertisements or solicitations shall include, but not be limited to:

(a) Promises of cure, relief from pain or other physical or mental condition, or improved physical or mental health;

(b) Any self-laudatory statement;

(c) Any misleading or deceptive statement offering or promising a free service. Nothing in this paragraph shall be construed to make it unlawful to offer a service for no charge if the offer is announced as part of a full disclosure of

routine fees including consultation fees;

(d) Any misleading or deceptive claims of patient cure, relief or improved condition; superiority in service, treatment or materials; new or improved service, treatment or material; or reduced costs or greater savings. Nothing in this paragraph shall be construed to make it unlawful to use any such claim if it is readily verifiable by existing documentation, data or other substantial evidence. Any claim which exceeds or exaggerates the scope of its supporting documentation, data or evidence is misleading or deceptive;

(15) Violation of the drug laws or rules and regulations of this state, any other state or the federal government;

(16) Failure or refusal to properly guard against contagious, infectious or communicable diseases or the spread thereof.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2, for disciplinary action are met, the board may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the [license, certificate, or permit] **certificate of registration or authority, permit, or license.**

**4. In any order of revocation, the board may provide that the person may not apply for reinstatement of the person's certificate of registration or authority, permit, or license for a period of time ranging from two to seven years following the date of the order of revocation. All stay orders shall toll this time period.**

**5. Before restoring to good standing a certificate of registration or authority, permit, or license that has been revoked, suspended, or inactive for any cause more than two years, the board may require the applicant to attend such continuing medical education courses and pass such examinations as the board may direct.**

330.180. This chapter shall not apply to the commissioned surgical officers of the United States Army, Navy or Marine hospital service when in the actual performance of their official duties, nor to any physician duly registered, nor to any legally registered podiatrist of another state, taking charge of the practice of a legally registered podiatrist of this state temporarily during the latter's absence

therefrom upon the written request to the board of said registered podiatrist of this state. This chapter shall further not apply to manufacturers of and dealers in shoes or corrective appliances for deformed feet; provided, however, that such manufacturers and dealers shall not be entitled to practice [podiatry] **podiatric medicine**, as in this chapter defined, unless duly licensed so to do as herein provided.

330.200. It shall be deemed prima facie evidence of the practice of [podiatry] **podiatric medicine**, or of holding oneself out as a practitioner within the meaning of this chapter, for any person to treat in any manner the human foot by medical, mechanical, or surgical methods, or to use the title "podiatrist" or "registered podiatrist", or any other words, or letters, which designate, or tend to designate, to the public that the person so treating or holding himself or herself out to treat, is a podiatrist.

330.210. Any person who shall unlawfully obtain [registration] **licensure** under this chapter, whether by false or untrue statements contained in his or her application to the board by presenting to said board a fraudulent diploma, certificate, or license, or one fraudulently obtained shall be deemed guilty of a class B misdemeanor; and any person not being lawfully authorized to practice [podiatry] **podiatric medicine** in this state and [registered] **licensed** as aforesaid, who shall advertise as a podiatrist, in any form, or hold himself out to the public as a podiatrist or who shall practice as a podiatrist shall be guilty of a class A misdemeanor.

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